

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: July 12, 2021**

<b><u>CASE NUMBER</u></b>	6395
<b><u>APPLICANT NAME</u></b>	Amy Cramer
<b><u>LOCATION</u></b>	4501 Park Road (East side of Park Road at the East terminus of Canal Road).
<b><u>VARIANCE REQUEST</u></b>	<b>SIDE YARD SETBACK:</b> To allow an air conditioning unit over three (3) feet high within a required side yard setback in an R-1, Single-Family Residential District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>SIDE YARD SETBACK:</b> The Zoning Ordinance requires side yard setback compliance for all structures three (3) feet and higher in an R-1, Single-Family Residential District.
<b><u>ZONING</u></b>	R-1, Single-family Residential District
<b><u>AREA OF PROPERTY</u></b>	0.66± Acre
<b><u>ENGINEERING COMMENTS</u></b>	<b>SIDE YARD SETBACK VARIANCE (AC Unit):</b>  If the proposed variance is approved for use the applicant will need to have the following conditions met:  <ol style="list-style-type: none"><li>1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit (Single Family Residential Affidavit) be submitted through Central Permitting.</li><li>2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.</li><li>3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, <u>Storm Water Management and Flood Control</u>); the <u>City of Mobile, Alabama Flood Plain Management Plan (1984)</u>; and, the <u>Rules For Erosion and Sedimentation Control and Storm Water Runoff Control</u>.</li><li>4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.</li></ol>
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments.

**URBAN FORESTRY****COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

**FIRE DEPARTMENT****COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

**CITY COUNCIL****DISTRICT**

District 3

**ANALYSIS**

The applicant is requesting a Side Yard Setback Variance to allow an air conditioning unit over three (3) feet high within a required side yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires side yard setback compliance for all structures three (3) feet and higher in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) land use designation, per the recently adopted Future Land Use Plan and Map. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

This designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semidetached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant states:

*Use of variance application – to hold HVAC and put generator under it during storms. This unit will operate under normal HVAC needs. Since the AC was in this location originally, all the pipes, electrical, etc were already run to this location. We were told we needed to raise the unit during the permitting process, so we did. There is no negative impact on surrounding properties as the function remains the same.*

The applicant obtained a building permit in June, 2018, to raise the existing portion of the dwelling on the subject site, and to also add an addition. As part of the project, the new HVAC unit was placed in the same location as the existing unit, within the required eight-foot side yard setback on the North side of the dwelling. Due to flood plain code requirements, the unit had to be elevated above the height of the original unit. This resulted in the unit being over three feet above grade within the required setback, and upon the Zoning Final Inspection prior to issuance of the Certificate of Occupancy, it was discovered that the unit and platform encroached into the required side yard setback. The Certificate of Occupancy cannot be issued until this matter is resolved; hence this application.

The subject site is in a flood zone along Mobile Bay, and in the past, the Board has been presented with similar requests where elevated HVAC units did not meet the required setbacks in flood zones. In those instances, staff has recommended denial of the setback requests, but the Board has been sympathetic to the applicants' requests due to the special requirements for mechanical equipment locations within flood zones, and staff is of the opinion that the approval of this similar request would be in line with the philosophy of the Board.

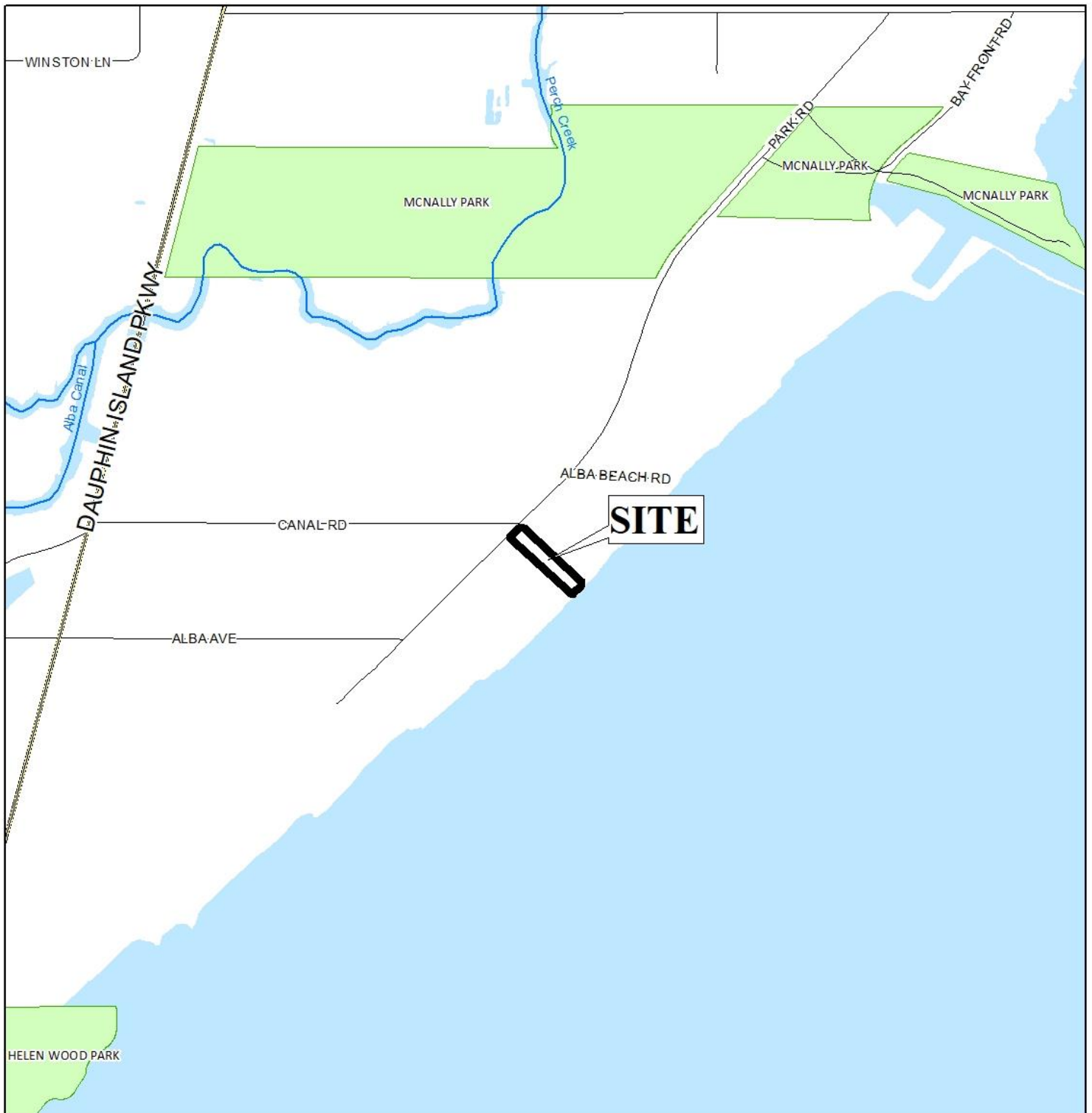
**RECOMMENDATION:** Based upon the preceding, staff recommends to the Board the following findings of fact for approval:

- 1) Approving the variance request will not be contrary to the public interest in that similar variances have been approved in flood zones along Dog River;
- 2) Special conditions appear to exist, primarily the requirements for higher mechanical equipment elevations within flood zones, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that the location of the mechanical equipment is more accessible for maintenance and is not intrusive onto adjacent properties.

The approval is subject to the following conditions:

- 1) compliance with the Engineering comments: *[If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit (Single Family Residential Affidavit) be submitted through Central Permitting. 2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way. 3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.];* and
- 2) full compliance with all municipal coded and ordinances.

# LOCATOR MAP



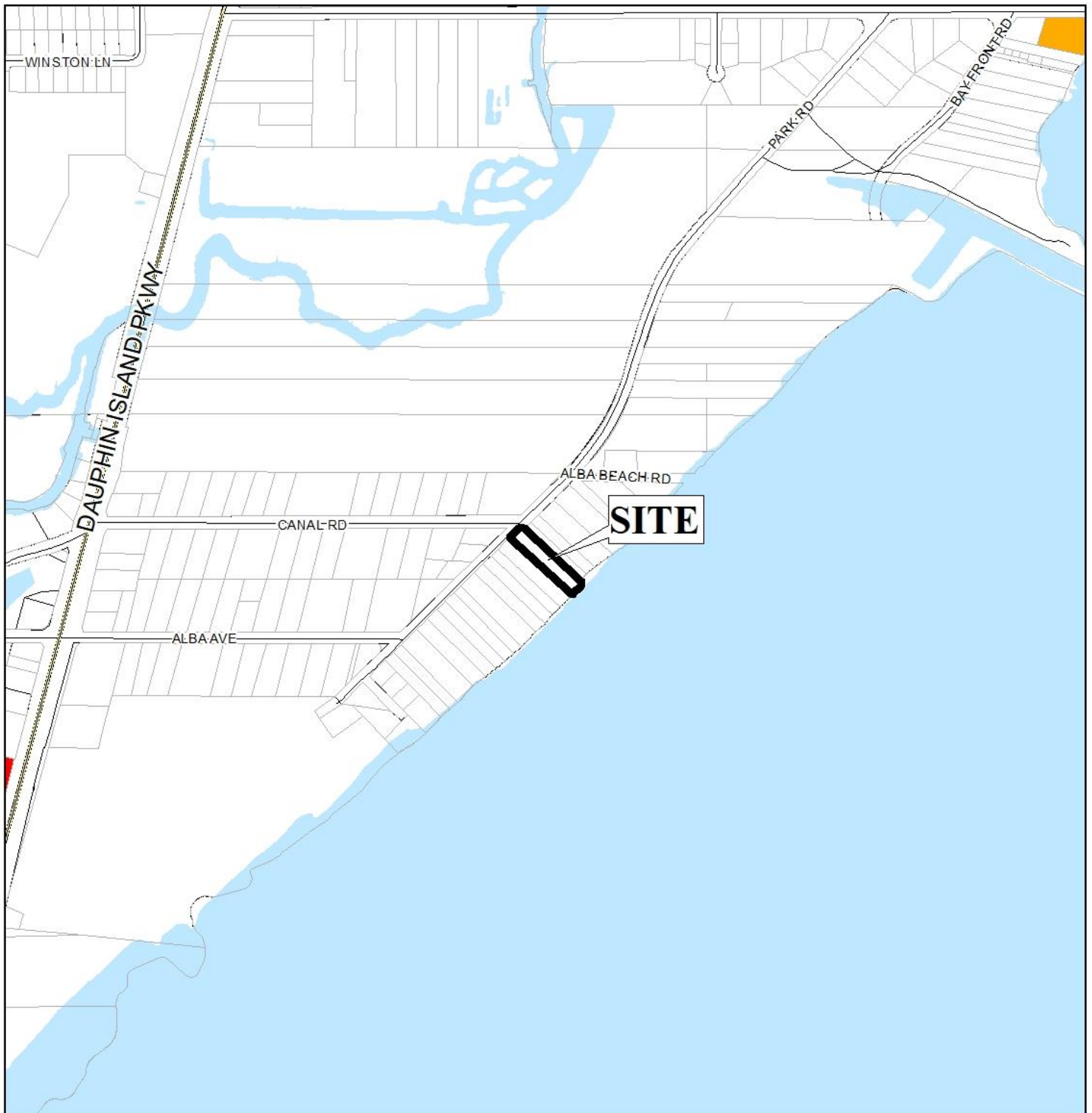
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REQUEST Side Yard Setback Variance



# LOCATOR ZONING MAP



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# FLUM LOCATOR MAP



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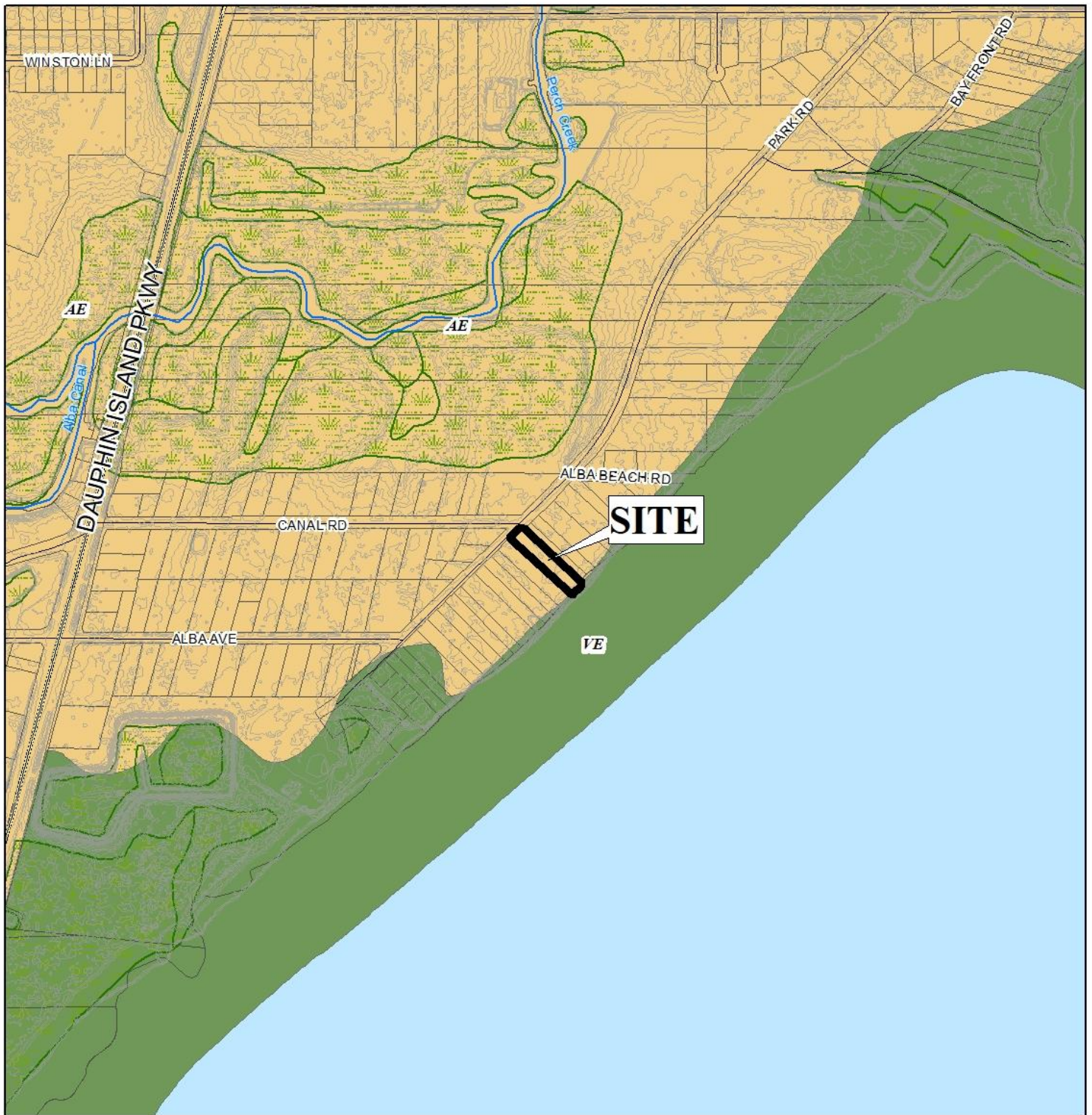
Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



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# ENVIRONMENTAL LOCATOR MAP



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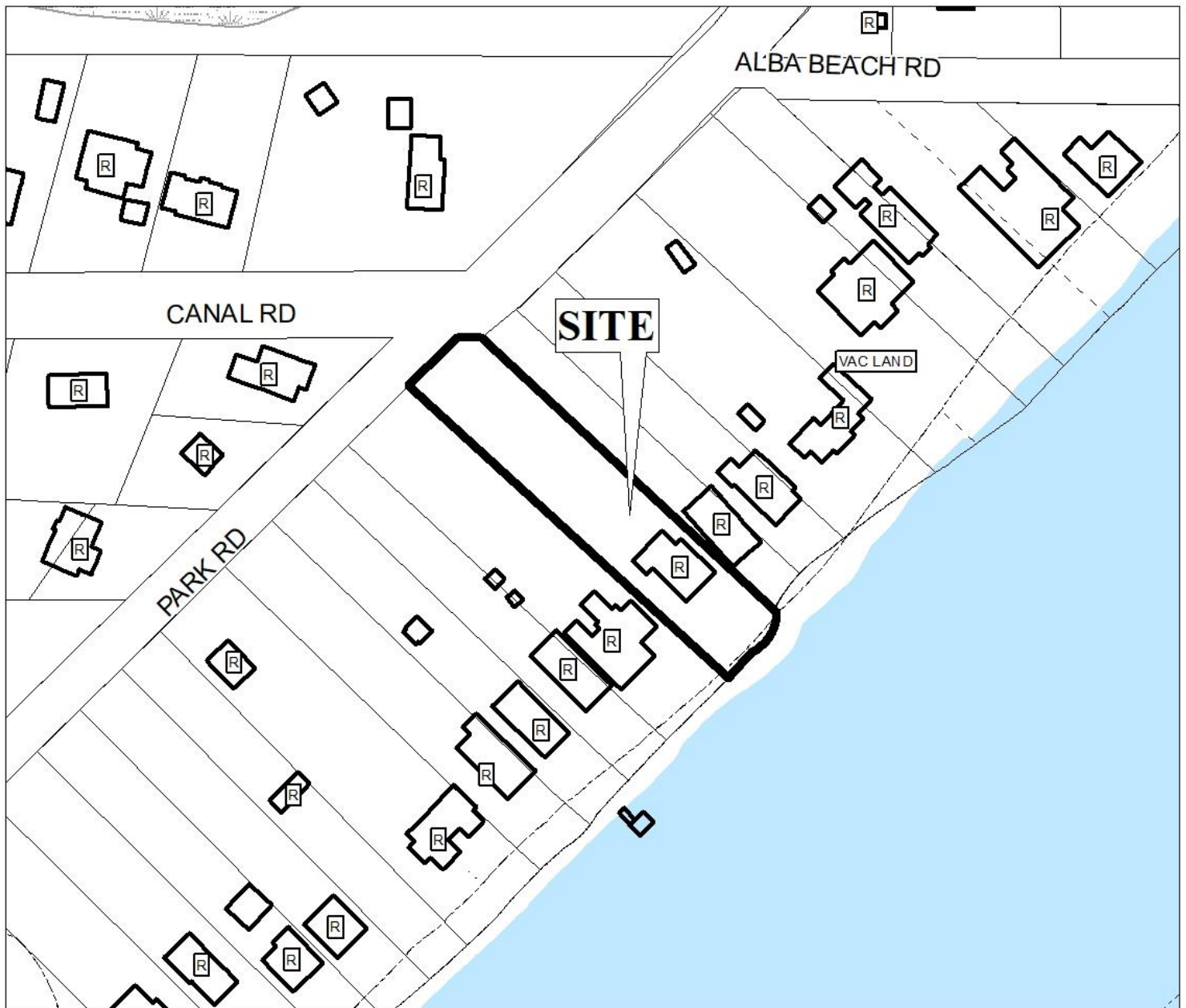
APPLICANT Amy Cramer

REQUEST Side Yard Setback Variance





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by single family residential units.

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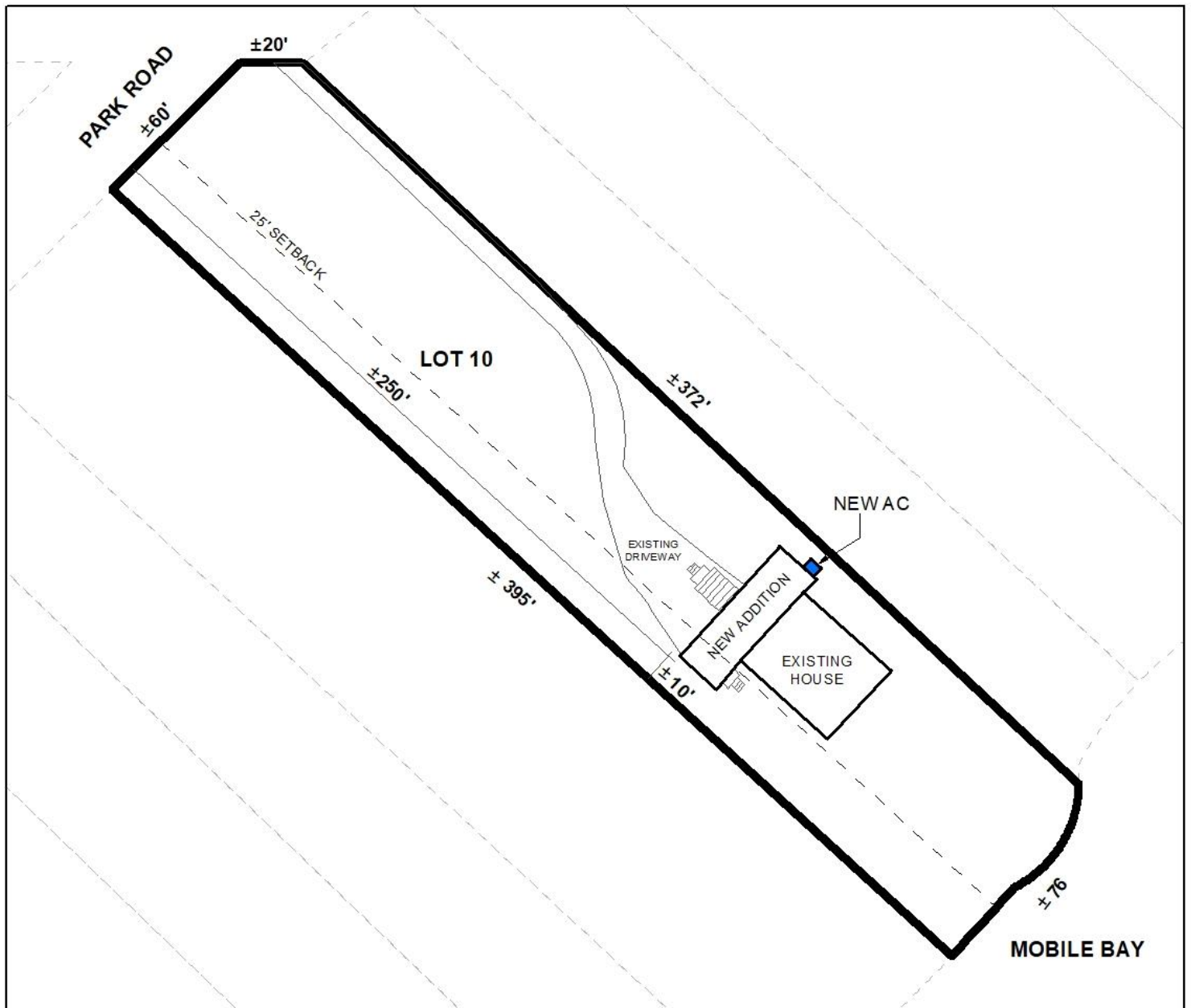
REQUEST Side Yard Setback Variance



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# SITE PLAN



The site plan illustrates an existing dwelling, setback and driveway with a new addition and a new AC unit.

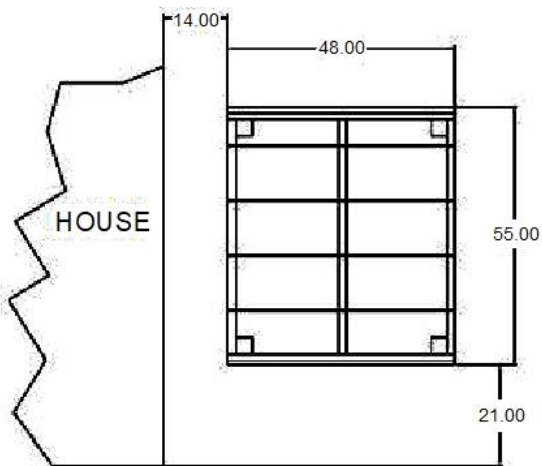
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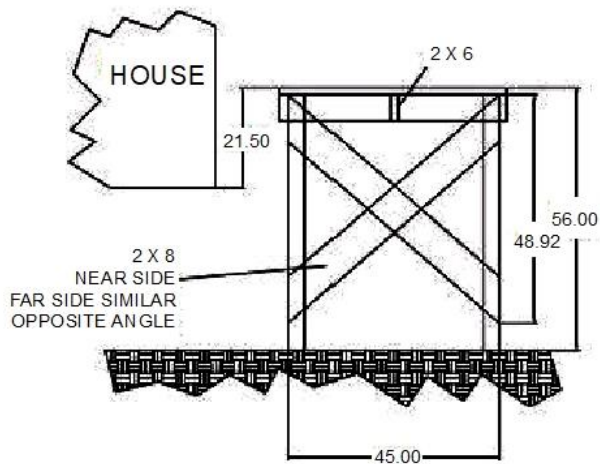
# DETAIL SITE PLAN



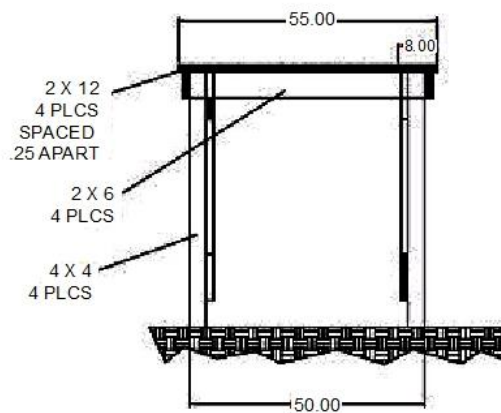
PLAN VIEW

## NOTES:

1. ALL CONSTRUCTION TO BE PRESSURE TREATED WOOD
2. ALL POSTS CONCRETED IN GROUND 36" MINIMUM
3. MINIMUM FASTENER SIZE - #8 COATED DECK SCREWS, 2.5"



ELEVATION VIEW



SIDE VIEW

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